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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 JOHN CROWLEY,

11 Plaintiff,

12 v.

13 DANIEL SUSSMAN, *et al.*,

14 Defendants.
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Case No. 2:10-CV-00150-KJD-VCF

ORDER

16 The present action was remanded by the Ninth Circuit Court of Appeals with instructions on
17 October 30, 2013. The Court's Order on Mandate (#45) was entered on January 7, 2014. On
18 January 24, 2014, *pro se* Plaintiff filed an Appeal (#46) of the magistrate judge's order (#44) entered
19 January 6, 2014, denying Plaintiff's motion to appoint counsel.

20 There is no constitutional right to appointed counsel in a § 1983 action. *Storseth v. Spellman*,
21 654 F.2d 1349, 1353 (9th Cir.1981). However, in "exceptional circumstances," a district court may
22 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1). *Aldabe v. Aldabe*, 616
23 F.2d 1089, 1093 (9th Cir.1980). To decide whether these exceptional circumstances exist, a district
24 court must evaluate both " 'the likelihood of success on the merits [and] the ability of the petitioner to
25 articulate his claims *pro se* in light of the complexity of the legal issues involved.' " *Wilborn v.*
26 *Escalderon*, 789 F.2d 1328, 1331 (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir.1983)); *see*

1 *also Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) withdrawn in part on reh'g en banc, 154
2 F.3d 952 (9th Cir. 1998). While it is true that Plaintiff successfully “participated” in an appeal in this
3 action to the Ninth Circuit Court of Appeals, he had appointed *pro bono* counsel in that effort. The
4 Court finds that Plaintiff has shown exceptional circumstances warranting appointment of counsel due
5 to the likelihood of success on the merits and the serious mental health history of Plaintiff which likely
6 would interfere with his ability to articulate his claims *pro se* in light of the complexity of the legal
7 issues involved.

8 Accordingly, IT IS HEREBY ORDERED that the Court **GRANTS** Plaintiff’s Appeal (#46);

9 IT IS FURTHER ORDERED that the Clerk of the Court officially re-open this action;

10 IT IS FURTHER ORDERED that the CJA Clerk appoint counsel to represent Plaintiff.

11 DATED this 8th day of May 2014.

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15 Kent J. Dawson
16 United States District Judge
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